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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,562	09/08/2003	Michael Gauselmann	ATR-A-121-1P	3426

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PATENT LAW GROUP LLP
2635 NORTH FIRST STREET
SUITE 223
SAN JOSE, CA 95134

EXAMINER

COBURN, CORBETT B

ART UNIT	PAPER NUMBER
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3714

MAIL DATE	DELIVERY MODE
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08/15/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/658,562

Applicant(s)

GAUSELMANN, MICHAEL

Examiner

Corbett B. Coburn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) 2-10, 13-17, 20, 21, 23, 25-53, 57 and 58 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 11, 12, 18, 19, 22, 24 and 54-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 9/8/3, 5/10/4.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of claims dealing with the dynamic adjustment of the hold percentage in the reply filed on 3 August 2007 is acknowledged.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. Applicant is reminded to update the specification to reflect the status of the parent case & any co-pending cases.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1, 11, 12, 18, 19, 22 & 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites "granting an award to the player based on a certain outcome..." This may be interpreted at least two ways: (1) "granting an award to the player based on a guaranteed outcome", or (2) "granting an award to the player if the player achieves a particular outcome (or one of a predetermined set of winning outcomes)". For

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purposes of examination, Examiner shall interpret the claim as awarding a player when the winning outcome is achieved.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 & 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Bennett (US Patent Number 6,224,482).

Claim 1: Bennett teaches a method performed by a first gaming machine comprising: receiving wagers from a player playing paid games on the first gaming machine. Bennett teaches detecting a free game bonus round initiation signal (i.e., the trigger); enabling the player to play N free games, where N is greater than or equal to 1 and granting an award to the player based on a certain outcome of the free games played. (Abstract)

Claim 11: Bennett teaches accumulating an amount in a free game pot (i.e., the jackpot) based at least partially on a percentage of wagers from the paid games, the free game pot for funding the free game bonus round (Col 2, 63-67) and deducting amounts from the free game pot to fund the free games being played. (Col 2, 27-29) Each wager made increases the jackpot & each sub-game won during the bonus round decrements the jackpot by the amount won in the sub-game.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bennett as applied to claim 11 in view of Gauselmann (US Patent Number 6,089,980)

Claim 12: Bennett teaches the invention substantially as claimed, but fails to teach detecting a level of the free game bonus pot and determining that the level of the free game pot is sufficient to fund all free games played during the free game bonus round prior to the free game bonus round initiation signal being generated. Gauselmann teaches determining when a jackpot's value reaches a threshold prior to triggering a bonus game. This ensures that the casino can pay all bonus game winnings from the player-funded jackpot. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Bennett in view of Gauselmann to determine when a jackpot's value reaches a threshold prior to triggering a bonus game in order to ensure that the casino can pay all bonus game winnings from the player-funded jackpot.

10. Claims 18, 19, 22, 24 & 54-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bennett as applied to claim 11 in view of Bueschel (*Lemons, Cherries & Bell Fruit Gum*, Royal Bell Books, 1995 page 85).

Claims 18, 19, 24, 54, 55: Bennett teaches the invention substantially as claimed, but fails to teach dynamically adjusting the percentage of wagers from the paid games to the

free game pot depending on a level of the free game pot. Jackpots were adopted early in the history of the slot machine. In the 1920's, jackpots became popular. On page 85 of Bueschel's book, there is a copy of an advertisement from that period. It explains how jackpots were funded. A player put a coin in the slot & if the jackpot was not full, the coin went into the jackpot. If the jackpot was full, the coin either went into another jackpot (even in the 1920's, slot machine designers knew the importance of making sure there was a full jackpot available to players before playing a jackpot game) or into the cash box. This was achieved through "well balanced shut-off gates". (See paragraph 2.) Thus until the jackpot was full, one percentage (100%) of all wagers went into the jackpot. Once the jackpot was full, the well-balanced shut-off gates were closed & another percentage (0%) of all wagers went into the jackpot. This ensured that the jackpot filled quickly, thus attracting players) while making sure that the operator made money. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Bennett in view of Bueschel to dynamically change the percentage of the wagers devoted to the jackpot in order to ensured that the jackpot filled quickly, thus attracting players) while making sure that the operator makes money.

Claim 22: Bueschel teaches a plurality of pots. The names of the pots (i.e., jackpot or free game pot) are immaterial and do not patentably distinguish over the prior art.

Claim 56: The machines described in Bueschel had two jackpots. When one was full, the gate was closed & the other jackpot filled. Thus the percentages were changed when it was judged that there was enough in one pot to fund play for that pot.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (571) 272-4447. The examiner can normally be reached on 8-5:30, Monday-Friday, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Corbett B. Coburn/
Primary Examiner
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